S. HRG. 101-1157

INTERSTATE GREYHOUND RACING ACT OF 1989

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

S. 1734

TO REGULATE INTERSTATE COMMERCE WITH RESPECT TO PARIMUTUEL WAGERING ON GREYHOUND RACING, TO MAINTAIN THE STABILITY OF THE GREYHOUND RACING INDUSTRY, AND FOR OTHER PURPOSES

OCTOBER 11, 1990

Printed for the use of the
Committee on Commerce, Science, and Transportation

U.S. GOVERNMENT PRINTING OFFICE

37-283 O WASHINGTON : 1991

5261-34

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

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INTERSTATE GREYHOUND RACING ACT OF 1989

THURSDAY, OCTOBER 11, 1990

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION,
Washington, D.C.

The Committee met, pursuant to notice, at 2:08 p.m, in room SR-253, Russell Senate Office Building, Hon. John Breaux, presiding.

Staff members assigned to this hearing: Moses Boyd, staff counsel and Sherman Joyce, minority staff counsel.

OPENING STATEMENT BY SENATOR BREAUX

Senator BREAUX. The committee will please come to order. This afternoon the Committee on Commerce will have a hearing on legislation before the committee on the question of handling of the simulcasts with regard to transmission of greyhound track racing dealing with a problem that has been brought to the attention of the committee.

As this member understands, the essence of the problem is that racetracks that allow the simulcast telecast of greyhound dog racing, which is becoming an increasingly important sport in this Nation—that those tracks that allow the simulcast broadcasting of those events are not now presently negotiating with all of the parties that should be consulted with, with regard to that simulcast.

A similar problem was brought to the attention of the Congress a number of years ago, dealing with a similar set of facts and circumstances dealing with the horse racing industry. Congress, through legislation at that time, took action which apparently has corrected the problem. It is the understanding of this member that the greyhound racing industry seeks a similar solution to the problem.

It is also this member's opinion that a product of a person should not be able to be utilized by any other party for the purposes of profit without some agreement from the originator of the product. That is something that I think is very basic to our society, and I think in this case the situation is also very similar.

I am interested in hearing the remarks from our witnesses, seeing if they have any recommendations that this committee and this Congress may act upon. It is my understanding that the other body, the House of Representatives, has taken action dealing with this problem, and perhaps there would be an opportunity to have the time available in this Congress on the Senate side to also address the concerns that have been expressed to me.

At this time, I would recognize Senator Kasten, if he has any comments that he would like to make.

OPENING STATEMENT BY SENATOR KASTEN

Senator KASTEN. Mr. Chairman, thank you. Today's hearing is on S. 1734, a bill that seeks to solve a perceived problem that, frankly, I have had no constituent complaints about. I am here to learn.

I have, however, heard in the last few days from several parties representing the track owner's point of view, who evidently may have significant problems with at least parts of this legislation. This is a subject which seems to be controversial within the dog racing industry, and I hope we are going to have the opportunity to study it, and to study it in detail.

In Wisconsin, my State has had greyhound racing for a couple of years. The first track opening last spring, and five tracks now are in operation. And this is a major recreational resource for Wisconsin.

This legislation, though it is supposed to add stability to the industry, at first glance appears to enhance the bargaining power of the dog owners by giving them a veto power—a statutory veto power—over any industry off-track betting contract, so I look forward to the testimony of our witnesses today and hope they will shed some light on exactly how, if and why the Federal Government should jump into this fray. There is State regulation in Wisconsin. And at least in my State there is no consensus right now in the industry on the way to proceed with this legislation.

I think that this is something which we should become educated about. It might not seem to be a matter that we can rush to judgment on with everything else that is before this committee and also before the Congress at this time, but Mr. Chairman, I am here to learn, and to find out what I can about this issue. Maybe there is a way that we can find an equitable.

Unfortunately, I am not going to able to be here for the whole hearing, but I hope I will be able to at least get a taste of it and then review the testimony of the various witnesses, along with the questions.

Mr. Chairman, I thank you.

Senator BREAUX. Thank you, Senator Kasten, for your comments.

[The bill follows:]

101ST CONGRESS
1ST SESSION

S. 1734

To regulate interstate commerce with respect to parimutuel wagering on greyhound racing, to maintain the stability of the greyhound racing industry, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 5 (legislative day, SEPTEMBER 18), 1989

Mr. BREAUX introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To regulate interstate commerce with respect to parimutuel wagering on greyhound racing, to maintain the stability of the greyhound racing industry, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interstate Greyhound Racing Act of 1989".

SEC. 2. FINDINGS AND POLICY.

(a) The Congress finds that the States should have the primary responsibility for determining what forms of greyhound racing may legally take place within their borders.

(b) It is the policy of the Congress in this Act to regulate interstate commerce in order to further greyhound racing in the United States.

SEC. 3 DEFINITIONS.

For the purposes of this Act the term—

(1) "currently operating tracks" means racing associations conducting parimutuel greyhound racing at the same time of day (afternoon against afternoon; nighttime against nighttime) as the racing association conducting the greyhound racing which is the subject of the interstate off-track wager;

(2) "dark days" means those days when racing of the same type does not occur in an off-track State within 60 miles of an off-track betting office during a race meeting, including, but not limited to, a dark weekday when such racing association or associations run on Sunday, and days when a racing program is scheduled but does not take place, or cannot be completed due to weather, strikes and other factors not within the control of the off-track betting system;

(3) "greyhound owners' group" means, with reference to the applicable host racing association, the group which represents the majority of owners of greyhounds racing there, for the races subject to the interstate off-track wager on any racing day;

(4) "host racing association" means any person who, pursuant to a license or other permission granted by the host State, conducts the greyhound race subject to the interstate wager;

(5) "host racing commission" means that person designated by State statute or, in the absence of statute, by regulation, with jurisdiction to regulate the conduct of racing within the host State;

(6) "host State" means the State in which the greyhound race subject to the interstate wager takes place;

(7) "interstate off-track wager" means a legal wager placed or accepted in one State with respect to the outcome of a greyhound race taking place in another State;

(8) "off-track betting office" means any location within an off-track State at which off-track wagers are accepted;

(9) "off-track betting system" means any group which is in the business of accepting wagers on greyhound races at locations other than the place where the greyhound race is run, which business is conducted by the State or licensed or otherwise permitted by State law;

(10) "off-track racing commission" means that person designated by State statute or, in the absence of statute, by regulation, with jurisdiction to regulate "off-track" betting in that State;

(11) "off-track State" means the State in which an interstate off-track wager is accepted;

(12) "on-track wager" means a wager with respect to the outcome of a greyhound race which is placed at the racetrack at which such greyhound race takes place;

(13) "parimutuel" means any system whereby wagers with respect to the outcome of a greyhound race are placed with, or in, a wagering pool conducted by a person licensed or otherwise permitted to do so under State law, and in which the participants are wagering with each other and not against the operator;

(14) "person" means any individual, association, partnership, joint venture, corporation, State or political subdivision thereof, department, agency, or instrumentality of a State or political subdivision thereof, or any other organization or entity;

(15) "race meeting" means those scheduled days during the year a racing association is granted permission by the appropriate State racing commission to conduct greyhound racing;

(16) "racing day" means a full program of races at a specified racing association on a specified day;

(17) "regular contractual process" means those negotiations by which the applicable greyhound owners' group and host racing association reach agreements on issues regarding the conduct of greyhound racing by the greyhound owners' group at the racing association;

(18) "special event" means the specific individual greyhound race which is deemed by the off-track betting system to be of sufficient national significance and interest to warrant interstate off-track wagering on that event or events;

(19) "State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

(20) "takeout" means that portion of a wager which is deducted from or not included in the parimutuel pool, and which is distributed to persons other than those placing wagers;

(21) "terms and conditions" includes, but is not limited to, the percentage which is paid by the off-track betting system to the host racing association, the percentage which is paid by the host racing association

to the greyhound owners' group, as well as any arrangements as to the exclusivity between the host racing association and the off-track betting system; and

(22) "year" means calendar year.

SEC. 4. PROHIBITION.

No person may accept an interstate off-track wager except as provided in this Act.

SEC. 5. REGULATION.

(a) An interstate off-track wager may be accepted by an off-track betting system only if consent is obtained from—

(1) the host racing association, except that—

(A) as a condition precedent to such consent, said racing association (except a not-for-profit racing association in a State where the distribution of off-track betting revenues in that State is set forth by law) must have a written agreement with the greyhound owners' group, under which said racing association may give such consent, setting forth the terms and conditions relating thereto: *Provided*, That,

(B) where the host racing association has a contract with a greyhound owners' group at the time of enactment of this Act which contains no provisions referring to interstate off-track betting, the terms and conditions of said then-existing con-

tract shall be deemed to apply to the interstate off-track wagers and no additional written agreement need be entered into unless the parties to such then-existing contract agree otherwise. Where such provisions exist in such existing contract, such contract shall govern. Where written consents exist at the time of enactment of this Act between an off-track betting system and the host racing association providing for interstate off-track wagers, or such written consents are executed by these parties prior to the expiration of such then-existing contract, upon the expiration of such then-existing contract the written agreement of such greyhound owners' group shall thereafter be required as such condition precedent and as a part of the regular contractual process, and may not be withdrawn or varied except in the regular contractual process. Where no such written consent exists, and where such written agreement occurs at a racing association which has a regular contractual process with such greyhound owners' group, said agreement by the greyhound owners' group may not be withdrawn or varied except in the regular contractual process;

(2) the host racing commission;

(3) the off-track racing commission.

(b)(1) In addition to the requirement of subsection (a), any off-track betting office shall obtain the approval of—

(A) all currently operating tracks within 60 miles of such off-track betting office; and

(B) if there are no currently operating tracks within 60 miles then the closest currently operating track in an adjoining State.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, any off-track betting office in a State with at least 250 days of on-track parimutuel greyhound racing a year, may accept interstate off-track wagers for a total of 60 racing days and 25 special events a year without the approval required by paragraph (1), if with respect to such 60 racing days, there is no racing of the same type at the same time of day being conducted within the off-track betting State within 60 miles of the off-track betting office accepting the wager, or such racing program cannot be completed. Excluded from such 60 days and from the consent required by subsection (b)(1) may be dark days which occur during a regularly scheduled race meeting in said off-track betting State. In order to accept any interstate off-track wager under the terms of the preceding sentence the off-track betting office shall make identical offers to any racing association described in subparagraph (A) of subsection (b)(1). Nothing in this sub-

paragraph shall be construed to reduce or eliminate the necessity of obtaining all the approvals required by subsection (a).

(c) No parimutuel off-track betting system may employ a takeout for an interstate wager which is greater than the takeout for corresponding wagering pools of off-track wagers on races run within the off-track State except where such greater takeout is authorized by State law in the off-track State.

SEC. 6. LIABILITY AND DAMAGES.

Any person accepting any interstate off-track wager in violation of this Act shall be civilly liable for damages to the host State, the host racing association and the greyhound owners' group. Damages for each violation shall be based on the total of off-track wagers as follows:

(1) If the interstate off-track wager was of a type accepted at the host racing association, damages shall be in an amount equal to that portion of the takeout which would have been distributed to the host State, host racing association and the greyhound owners' group, as if each such interstate off-track wager had been placed at the host racing association.

(2) If such interstate off-track wager was of a type not accepted at the host racing association, the amount of damages shall be determined at the rate of

takeout prevailing at the off-track betting system for that type of wager and shall be distributed according to the same formulas as in paragraph (1) above.

SEC. 7. CIVIL ACTION.

(a) The host State, the host racing association, or the greyhound Owners' group may commence a civil action against any person alleged to be in violation of this Act, for injunctive relief to restrain violations and for damages in accordance with section 6.

(b) In any civil action under this section, the host State, the host racing association and greyhound owners' group, if not a party, shall be permitted to intervene as a matter of right.

(c) A civil action may not be commenced pursuant to this section more than 3 years after the discovery of the alleged violation upon which such civil action is based.

(d) Nothing in this Act shall be construed to permit a State to be sued under this section other than in accordance with its applicable laws.

SEC. 8. JURISDICTION AND VENUE.

(a) Notwithstanding any other provision of law, the district courts of the United States shall have jurisdiction over any civil action under this Act, without regard to the citizenship of the parties or the amount in controversy.

(b) A civil action under this Act may be brought in any district court of the United States for a district located in the host State of the off-track State, and all process in any such civil action may be served in any judicial district of the United States.

(c) The jurisdiction of the district courts of the United States pursuant to this section shall be concurrent with that of any State court of competent jurisdiction located in the host State or the off-track State.

SEC. 9. EFFECTIVE DATE; APPLICABILITY.

(a) The provisions of this Act shall take effect on the date of enactment of this Act, and, except as provided in subsection (b) of this section, shall apply to any interstate off-track wager accepted on or after such date of enactment.

(b) The provisions of this Act shall not apply to any interstate off-track wager which is accepted pursuant to a contract existing on May 1, 1978.

Senator BREAUX. Let me at this time ask our witnesses to come before the committee. Mr. Gary Guccione, Secretary-Treasurer of the National Greyhound Association, Mr. David Brosnan, who is chairman of the Simulcast Committee, and Mrs. Janet Allen, who is a greyhound breeder and kennel operator.

I would point out that the committee has asked and has contacted representatives of the various track owners' associations who were not able to be with us. We would be very pleased to receive their statements if they would be interested in filing such statements and making it part of our record.

I have a statement also of Senator John Kerry from Massachusetts introducing Mr. David Brosnan and welcoming him. Senator Kerry is supposed to be with us, and if he is able to come, I know he would have some remarks about Mr. Brosnan, but we have Senator Kerry's remarks introducing him which will be made part of our record.

[The statement follows:]

OPENING STATEMENT BY SENATOR KERRY

Mr. Chairman and members of the subcommittee. I am pleased to welcome a distinguished constituent who is very active in the greyhound business that we are addressing today.

Mr. Dave Brosnan, from Gloucester, MA, has been a member of the National Greyhound Association since 1979. He has served as a member of its executive committee for three years, and he is presently the chairman of the National Greyhound Association's simulcasting committee. This is the committee that focuses on the problems and solutions of televised simulcasting of greyhound races from one state to another.

Dave and his wife, Sandy, have bred and raised greyhounds, so they certainly qualify as knowledgeable witnesses in this field.

In addition to his expertise in greyhound racing, Dave has distinguished himself in a number of ways.

He is a U.S. Air Force veteran who served in Viet Nam.

In 1981, the American Legion awarded him the honor of "Police Officer of the Year in Massachusetts."

Dave is a retired major in the Massachusetts state police.

Mr. Chairman, I am proud to present Dave to this subcommittee, and to welcome him to the U.S. Senate. I know that his expertise in the field of greyhound racing will be helpful to the members of this Committee in making decisions on the pending legislation.

Senator BREAUX. Mr. Guccione, I guess if we could hear from you.

STATEMENT OF GARY GUCCIONE, SECRETARY TREASURER, NATIONAL GREYHOUND ASSOCIATION, ABILENE, KS

Mr. GUCCIONE. Thank you, Mr. Chairman.

We appreciate the opportunity to testify before you today. My name is Gary Guccione. I am the Secretary Treasurer of the National Greyhound Association, which is headquartered in Abilene, Kansas. My colleagues here have already been introduced.

We are here today as owners and breeders of greyhounds and representatives of greyhound owners and breeders, to testify in favor of S. 1734, the 1989 Interstate Greyhound Racing Act. I wish to deal with three main issues very briefly. The issue of the sport itself; the issue of simulcasting; and the issue of fairness.

Before I delve into those, though, I would make a comment before Senator Kasten may leave us in regard to racing in Wisconsin, which is brand new. That this particular bill deals strictly with interstate simulcasting. And that at the present time, in Wisconsin, there is no interstate simulcasting under way or no plans that I am aware of, of interstate simulcasting for the immediate future.

In regard to greyhound racing, which you briefly touched upon, Senator, it has been a growth industry since 1969, soon to be in 19 States; 20 years ago it was only in 7. There will be 60 tracks before the end of next year; 26 million spectators attended the races last year, wagered $3.2 billion—tax revenues of $228 million dollars to the States and growing, making it the sixth-largest spectator sport in the country. And the stars of the whole program are the greyhounds themselves. These are the fastest canine breed in the world, reaching speeds of 45 m.p.h. They are a very unique, wonderful animal. They are raised in all regions of the country. It costs about $2,500 to raise a greyhound. And more than $100 million is expended each year in the maintaining and care of the greyhounds, both at the farm and at the track level. It is an industry that touches tens of thousands of lives in terms of jobs and of small businesses.

On the issue of simulcasting, simulcasting is the simultaneous broadcast of races as they are contested to patrons wagering at sites other than the track where races are conducted. Technology offers a great opportunity to all types of racing, be it greyhound or horse, by exposing racing's product to more customers.

This can be done in a number of different ways. It can be done from track to track, from track to casino or track to theater. It can be intrastate and interstate, as I mentioned just a moment ago in touching on the interstate. The pari-mutuel pools—and that is the monies that are wagered on the races—these can be separate, in the case of simulcasting, or they can be what they call commingled. More and more States are looking at that practice.

But simulcasting can have a dark side. Unless it is carefully controlled, it can certainly damage the industry, especially the vulnerable elements of the industry such as the greyhound owners and breeders. And my colleague, Dave Brosnan, will touch upon some of those possible dangers in his remarks.

Interstate or intrastate simulcasting is certainly very easy to conduct in greyhound racing. And it is made easier by the fact that many of the tracks in the country are owned by a limited number of groups.

We have, for example, Delaware North Companies owning a number of tracks in various States around the country, making it very easy for them to set up an interstate network of simulcasting. United Tote, another multiple-track owner and management group involved in a number of different States; the Rooney family is another that has tracks in more than one State.

Our cousins in the horse racing industry saw the possible threat of simulcasting more than a decade ago and sought and received protection through the 1978 Interstate Horse Racing Act. It simply established certain requirements for interstate simulcasting, that being that the host track, the racing commissions, any tracks within a certain distance of a track that could be affected, and the group representing the horse owners, that they be in agreement with the terms before they could conduct simulcasting across interstate lines.

It was a beautiful piece of legislation. It did not require the expenditure of any Federal dollars, it did not cause the creation of any new agencies, it did not force the expansion of bureaucracy, and it did not result in a burden on the courts. In fact, there has been just one court case in the last 13 years since the enactment of the 1978 Interstate Horse Racing Act.

Nor does it interfere with States' desires or wishes with regard to pari-mutuel waging. They can offer as much racing or the types of racing that they want.

This bill is patterned exactly after that 1978 horse racing act. It extends to the entities in greyhound racing that would be involved or affected by simulcasting—interstate simulcasting—the same privileges and requirements already granted to the horse racing industry.

Now, just briefly on the issue of fairness. It is inconceivable that any commodity or program could be shown on cable or satellite or over the airwaves without the owner of that commodity or the subject of that program sharing in the revenues, or at least giving permission for that program to be shown.

Yet the proprietary rights of greyhound owners are being denied under the current practice of greyhound racing. To understand how that is possible, you need to understand the present contract or booking system, as it is known in greyhound racing.

The kennel operators wanting to race at a particular track will apply at that racetrack for a contract or a booking. They will ask for an application, fill it out, submit it to the track. And if they are accepted, the track will send that individual a contract. And it is a standard contract that it sends to the kennels—usually 16 to 20 kennels—that it wants to operate and race at that racetrack.

Usually there are long lines of greyhound owners waiting to race at those tracks, to get booked or receive a contract. So the tracks are in the very enviable position to be able to tell applicants that they can either take the terms of the contract or leave it.

The process is totally void of any type of negotiations. So whenever tracks refer to the beauty of the current negotiating system in greyhound racing, they are really referring to no negotiating system at all.

We point this out, this current situation, not to seek a solution from you—we need to deal with these problems on our own in the individual States. But the one exception involves interstate simulcasting. And that is an exception because clearly Congress has already set the precedent of establishing basic guidelines when it comes to racing animals being shown across State lines for simulcast wagering purposes.

S. 1734 would correct this unfair practice and provide for all those involved a chair at the negotiating table. We are not asking Congress to set the terms—merely to give us the opportunity to negotiate. That is what the horse racing act did in 1978. And we are asking that the same standard of fairness be applied to greyhound owners today.

Thank you and I would be happy to answer any questions at the appropriate time.

[The statement follows:]

STATEMENT OF GARY GUCCIONE, SECRETARY TRESURER, NATIONAL GREYHOUND ASSN.

Mr. Chairman, Members of the Subcommittee, thank you for the opportunity to share our thoughts with regard to S. 1734, the 1989 Interstate Greyhound Racing Act. After considering this testimony, along with the other statements to be provided by my colleagues, we hope you'll agree that this bill is vital for the future of our industry.

Greyhound racing, now conducted in 17 states (soon to be 19), has enjoyed a tremendous boon in this country during the last two decades. It's a sports-industry that provides entertainment to more than 25 million fans each year, jobs and small-business opportunities for tens of thousands of people at various levels—from the racetrack to the greyhound farms—and tax dollars to state and local governments that last year exceeded $225 million. Greyhound racing is indeed a growth industry with a bright future.

Simulcasting—the simultaneous broadcast of races, as they are contested, to patrons wagering at sites other than the track where the races are conducted—has the capability of further accelerating the sport's growth and strengthening the industry as a whole. However, if left unchecked or unregulated, it also has the potential of dealing a severe blow to thousands of people whose livelihoods depend on the sport, as well as to the governments that rely on the tax dollars generated.

These possible scenarios involving simulcast wagering for our sport are by no means merely speculation. Our cousins in the horse-racing industry, traditionally confronted with the same problems we face (only they faced them a generation earlier), have already dealt with the issue of simulcasting. To protect their industry from the potential menaces of a simulcast system out of control, the horse industry sought—and received—federal legislation known as the 1978 Interstate Horse Racing Act. After 12 years of trial and testing, the legislation has proven to be a big benefit for the horse industry. At the same time, it has not cost the federal government any money, nor has it caused the creation or expansion of any federal agency to regulate it.

Therefore, when confronted with the same simulcast wagering issue, greyhound owners felt that the 1978 Horse Racing Act was the logical starting point. The result is the legislation before you today, S. 1734, known as the 1989 Interstate Greyhound Racing Act. Except for the change in references from horse racing to greyhound racing, the two acts are virtually the same.

This report is intended to show why S. 1734 is clearly important legislation for our industry. Discussion in this report will center on these two points: (1) Basic background information on greyhound racing; (2) The benefits and problems of simulcasting.

Additional reports, submitted by others in the industry, will focus on the history, longrange problems and economic impact of simulcasting upon our industry, if left unchecked (presented by Dave Brosnan, chairman of the National Greyhound Association's Simulcasting Subcommittee), and how S. 1734 addresses the simulcast issue (presented by Janet Allen, a Phoenix breeder and kennel operator).

GREYHOUND RACING—BACKGROUND INFORMATION

Greyhound racing, as it's conducted in the world today (Australia, England, Ireland and the United States are the major racing countries), is primarily an American phenomenon. It was first successfully tried on an oval track in 1919 in Emeryville, Calif., the brainchild of Owen Patrick Smith (known as the "Father of Greyhound Racing"), who developed the first effective mechanical lure. The first

successful race meet was staged in Tulsa, Okla., in 1921. Greyhound racing gained much popularity in the mid-1920s when it was conducted at night under the lights, particularly in Florida, which was to become the hotbed of racing for decades. Growth was sporadic in the following decades, then—in the late 1960s, early 70s—the sport began gaining widespread popularity. Today it is conducted at more than 50 locations in the states of Alabama, Arizona, Arkansas, Colorado, Connecticut, Florida, Idaho, Iowa, Kansas, Massachusetts, New Hampshire, Oregon, Rhode Island, South Dakota, Vermont, West Virginia and Wisconsin. Texas and Nevada are scheduled to join the fold later this year or early in 1991.

The "stars" of a race are the greyhounds themselves. These brilliant animals are sighthounds, hunters by tradition, and the fastest of all canine breeds, capable of reaching speeds beyond 45 miles per hour. The fact that they love to run and love to chase anything that moves, including the artificial lure that runs along the inside rail of a racetrack, makes the sport of racing possible. Eight greyhounds at a time compete in most races, running at various distances (5/16 of a mile the most common, but 3/8 and 7/16-mile distances are also run) over a quarter-mile oval.

Greyhounds are raised in all states of the country, but they are especially abundant in the Central Plains states and states where the sport is conducted. The owners and breeders register their greyhounds with the National Greyhound Association, headquartered in Abilene, Ks., which is the caretaker of the bloodline records of all racing greyhounds in North America. The NGA has been in existence since 1906 and is recognized by all racing jurisdictions in the United States as the sole registry for the sport. The NGA's membership is composed of 6,700 greyhound owners and breeders from across the country. NGA is a co-founder of the Greyhound Hall Of Fame and the American Greyhound Council, an associate member of the World Greyhound Racing Federation and the Association of Racing Commissioners International, Inc. It is also a charter member of the World Alliance of Greyhound Registries.

Another important duty of the National Greyhound Association is the identification of the greyhounds. Every breeding and every whelping (birth) must be reported to the NGA within 10 days. At 3 months of age, a greyhound pup is tattooed in the ears with numbers issued by the NGA that will identify the animal for life (coupled with its own unique coloring, feet and toenail markings). All greyhounds are named through the NGA prior to their going to the racetrack.

Like the stars and champions of other sports, greyhounds are athletes. No less than the best of feed and care are provided in order for the greyhounds so they can perform at their peak ability. Today the cost of breeding and raising a greyhound to track-age (18 months of age) is about $2,500. Greyhounds usually race until they are about 4 to 5 years old.

Most tracks are privately owned and are operated as proprietary profit-making ventures. All wagering is conducted through on-track totalisator systems with the majority of racing held during the evening hours. Most tracks conduct 13 races at each performance at about 15- minute intervals.

Pari-mutuel wagering is the system that helps make greyhound racing the popular sport that it is—just as it does for quarter horse, thoroughbred and harness racing. Participants place their wagers on the outcome of a race, then a percentage of the money wagered (usually between 77 percent and 82 percent, depending on the individual state law and type of wager) is returned to those in the wagering public holding winning tickets. In this manner, the people are not wagering against the track or the "house" (as in casinotype gaming), but against themselves.

All aspects of racing are regulated by state racing commissions in order to protect the interests of racing fans. Of the 18 to 23 percent withdrawn from the pari-mutuel handle (aptly called the "take-out"), a portion goes to state and local tax revenues, with the remaining amount retained by the license holder to pay track operational expenses (purses, salaries, etc.) and as profit.

The excitement of greyhound racing and the extreme confidence participants have in the honesty and integrity of the sport, coupled with the steady expansion of racing to new jurisdictions, have all contributed toward steady growth in the sport in the last 20 years. This expansion is best reflected in the following statistics:

In 1969, there were 36 tracks in 7 states; today there are 53 tracks in 17 states;

The number of spectators grew from 12 million in 1969 to 26.6 million in 1989, ranking greyhound racing as the sixth largest spectator sport in America;

Pari-mutuel handle (the amount wagered) rose from $660 million in 1969 to $3.2 billion in 1989;

State and local tax revenues rose from $116 million in 1969 to $228 million in 1989.

These are clear indications that greyhound racing is indeed a major spectator sport in America. Greyhound racing has its own Greyhound Hall Of Fame, across from the Eisenhower Center in Abilene, Ks., lauded as a major attraction in Kansas and one of the best sports museums of its type in the country. Greyhound racing's stake-race program has several races each year where the win purse exceeds $50,000, with the total purse for the eight finalists around $150,000.

Conducted in only 17 of the 50 states, greyhound racing is capable of continued growth—especially with more state governments looking for tried and proven methods of increasing tax revenues while also spurring economic development. As that occurs, greyhound racing will become an increasingly important element in the lives of more and more Americans.

To understand some of the effects of simulcast wagering on greyhound racing, it's important to understand the contract or "booking" system and the standard methods of purse distribution in the industry—which are certainly different from the systems used in horse racing. A kennel operator

wishing to apply for a contract to race at a track will notify the track of his intentions to acquire an application. He'll then submit that application to the track, along with a list of greyhounds (roster) he plans to race at the track. The track usually has a minimum requirement as to the number of graded dogs, distance greyhounds, etc. If the track wishes to "book" the kennel, it will send the kennel owner a standardized contract—the same contract sent to all their other kennels the track wishes to book to race at the track that season. A track may book anywhere from 14 to 30 kennels, depending on its situation, but the average number is usually between 16 and 20.

As you can see, the "booking" system is totally void of any negotiations between the track and the kennel operator or an owners' or operators' group. Because there is almost always a much longer line of people waiting to get "booked" into a racetrack than there are bookings, the track is in the enviable position to be able to tell potential kennel operators to take- it-or-leave-it. In effect: "If you don't like the terms we've set for you to run at our track, then go race elsewhere." Thus it is, whenever track operators refer to the beauty of the current "negotiating" system of greyhound racing—as they have in arguing against the adoption of this bill—they were referring to no negotiating system at all! It is our contention that one reason the American Greyhound Track Operators Association is opposed to this legislation is because the system of true negotiating is presently non-existent, with full and total control of the terms of racing in the track operators' hands.

As for the method of purse payment—a percentage of the amount wagered (the parimutuel handle) during each week is paid in the form of purses. This percentage is either mandated by legislation, or set by state racing commission policy or by the track itself. In some cases, all the purse money is distributed to the contracted kennels; in other cases, the money is paid directly by the track to the greyhound owner. The purse percentage paid varies from state to state, ranging from 2.7 percent in Alabama to 4.5 in the new racing state of Wisconsin.

THE ISSUE OF SIMULCASTING

Some 20 years ago, if a racing fan wanted to make a legal wager on a race, he or she had to go to the track where the race was being run. Simulcasting soon changed that in a big way.

Today, the methods of placing a legal wager on a race—be it in greyhound racing or horse racing—are practically endless. Races are simulcast from track to track (both intrastate and interstate), from track to betting parlor (both intrastate and interstate), from track to casino (primarily interstate), from one kind of track to another kind of track (greyhound to horse and vice versa); from a track that's open to one that's closed for the season; from one track to another racing facility that's currently conducting live racing. Simulcasting may involve two separate betting pools—the host track's handle and pay-offs being entirely independent from the receiving track's pari- mutuels; or the two tracks may have common pools and pay-offs (commingling). No doubt other new combinations involving simulcasting will continue to arise.

What's the attraction of simulcasting? Quite simply, it makes it more convenient for more racing fans to place a wager on a race. By simulcasting races, a racetrack's market can be significantly broadened. That increases the pari-mutuel handle on the race, which, as was noted above, is the prime revenue source that pays taxes, operational expenses and hopefully provides some profits.

Fueling the fires of simulcasting is an ever-increasing scramble for the entertainment dollar in this country. Racing, at one time, was one of only a handful of sporting entertainment alternatives to the public. Today, the competition for the discretionary leisure dollar is fierce. Racing, in order to hold its own, has felt the need to make it as convenient as possible for its fans to see and wager on a race. Ever-increasing operational expenses, plus sagging attendance and pari-mutuel figures (largely due to the intense competition), have threatened the very survival of some horse tracks in recent years. Some racing experts have concluded that simulcasting may be the only mechanism that can keep many horse tracks afloat in the years ahead.

But there are some downsides to simulcasting, if the racing industry is not cautious how it proceeds. One involves the potential threat to live racing. Too much simulcasting, or simulcasting too deeply into markets where live racing exists, can negatively effect area tracks. Pari-mutuel handles and attendance drop, consequently tax revenues, purses, salaries, etc. decrease. It may even force the track to close, dealing a severe blow to everyone associated with the track, including the breeders and owners—horse or greyhound—that were providing the racing products to operate that facility. It's possible for simulcasting to be extremely beneficial to one segment of racing, but equally injurious to another. David Brosnan goes into greater detail in his report on this particular matter.

The biggest concern of greyhound owners and breeders with regard to simulcast deals with this issue of fairness. Many owners have already experienced the frustration of seeing their greyhounds used for simulcasting, without the owners' permission. Adding insult to injury is the fact that, in most cases, the greyhound owners' are not being properly recompensated for the use of their greyhounds in the simulcasting programs. The bulk of profits are ending up in the pockets of the track operators, the owners of facilities receiving the simulcast, or the disseminators in the middle who set up the system—everyone except those whose greyhounds make the entire simulcasting system possible. This situation exists in greyhound racing today because of the lack of any federal guidelines such as those implemented by the 1978 Interstate Horse Racing Act. With no federal guidelines dictating fairness, simulcasting in greyhound racing is trampling over a segment of the industry that makes it all possible—the owners and breeders.

It is inconceivable to imagine a Sylvester Stallone movie or Mike Tyson fight being shown on a cable or satellite system, without Stallone or Tyson somehow sharing in the financial benefits derived from those telecasts. It is even more inconceivable to imagine such programs being shown without their permission Yet that unjust practice is going on every day when greyhound races are being simulcast across the country, for profit, without compensation going to the greyhounds' owners and without their permission.

S. 1734 does not call for financial remuneration for the greyhound owners. It does not legislate the terms of simulcasting. It does not set the purse percentage owners should receive from simulcast wagering. What it does is this: It merely asks for that which was granted horse owners back in 1978 with the Interstate Horse Racing Act—the right to have a chair at the negotiating table, along with the track operators and the respective racing commissions, when the weighty decisions involving the simulcasting of their greyhounds are being made.

That's what the Horse Racing Act did. It required all parties involved to agree on the terms of simulcasting before it could be carried out across state lines. It established the proprietary relationship of the horse racing industry and its right to proper compensation when its product was being used. The 1989 Interstate Greyhound Racing Act asks no more, no less.

As mentioned earlier, it accomplishes this without any budgetary demands on the federal government, nor without an expansion of the federal bureaucracy. It is a wonderful piece of legislation whose merits have been proven in their application to the horse racing industry through the 1978 Horse Racing Act. It's time greyhound owners were granted this same allowance, this same degree of fairness—the right to determine when and how their personal property, their greyhounds, should be used.

Thank you.

Senator BREAUX. Thank you very much, Mr. Guccione. But let us hear from our other witnesses.

Ms. Allen, do you want to go next?

STATEMENT OF JANET ALLEN, GREYHOUND BREEDER AND KENNEL OPERATOR, PHOENIX, AZ

Mrs. ALLEN. Mr. Chairman, members of the committee, my name is Janet Allen. I am a greyhound breeder and a racing kennel owner from the Phoenix, Arizona, area.

The first thing I would like to make very clear to you is that the NGA who represents the owners and breeders in this country is not against simulcasting. This is not an anti- simulcasting bill. And anyone who has studied the simulcasting issue realizes that it will play a key and inevitable role in the future of racing.

And we realize this. But it is along with this realization that comes our concerns about the downside of simulcasting.

When the greyhound industry began looking for legislation to protect us from the dangers of simulcasting, we needed look no further than the 1978 Interstate Horse Racing Act. This is a wonderful piece of legislation in that it works. Its merits have been tested over the past 12 years. It is legislation that is proven. And as Gary has just pointed out, it created no more bureaucracy, nor did it cost any additional tax dollars. And also, as he pointed out, the legal cause of action granted under the Interstate Horse Racing Act tested only the one case. So the history of this bill has proven that it will not clutter the court system.

This bill has succeeded in its intent to allow simulcasting to benefit the sport of horse racing, while not permitting the negative side of simulcasting to destroy it. With the benefit of hindsight, this bill is, indeed, what the greyhound racing industry needs today.

They had a problem; this bill was their solution. We have a problem; this bill is our solution. And our situation does not differ from the horse industry regarding simulcasting. And to say that it furthers the private interest of dog owners is absurd, and it makes me very sad. I am a dog owner. And I want nothing more than I already have. And if this bill does not pass, not only will I not be compensated for my dogs' racing, I will not even know where they are racing

them. I will lose control completely. And the people who are already making the money will make 100 percent off my dogs. I am out of it if it is simulcast out of State with no control.

I would like to list a few of the things that this bill will do. It will provide protection for all involved, for everyone involved in greyhound racing. And just how this would be accomplished is very simple. And this is the nucleus of the whole bill. It would require that all parties, including us, who have any interest in the simulcasting of races must be in agreement with the terms of the simulcasting procedure if it pertains to an interstate situation. These parties would include, of course, the racing association, the owners' group which represents a majority of owners of greyhounds racing there, and the racing commissions. Another important thing this bill will do, and maybe the most important, is immediately correct the blatant unfairness now prevalent that permits the transmission of races without the express, written permission of the owners of the greyhounds. And this is happening. This bill will guarantee owners' proprietary rights to their racing animals.

And I would like to point out a few things that the bill will not do. Number one, it will not interfere with intrastate simulcasting. There is intrastate simulcasting going on within States. This goes through the Tote system. It is paid out in the purses. And that is fine. There is no problem with that.

Number two, it will not restrict the expansion of interstate simulcasting in any way, as long as all parties affected are in agreement. And number three, this legislation will not interject Congress into the contractual business relationships between tracks and greyhound groups; nor does this legislation force the tracks to negotiate the terms of the racing contracts with their kennels. And I am dealing with that right now.

Okay, this bill sets no terms. It only sets the guidelines that these groups must negotiate themselves. And number four, this bill does not encourage the expansion of gaming in any States where the citizens have not supported such sport. And finally, the 1989 Interstate Greyhound Racing Act does not legalize off-track betting, period.

Simulcasting, as it is currently being conducted in greyhound racing, boils down to a fairness issue. The present system in horse racing, which allows all parties with an interest in interstate simulcasting of racing, including the horse owners, to negotiate the terms of how their animals will be used in the interstate simulcasting process is a just and fair one.

This has been deemed as such by Congress, by passing the 1978 Interstate Horse Racing Act. And that the greyhound owners are not afforded the same privilege is an inequity, because we have the same problem. There is strong precedent for Congress to become involved in this issue. And that the greyhound owners' proprietary interests are neither respected nor protected at the present time when it comes to simulcasting is unfair.

Thank you.

[The statement follows:]

STATEMENT OF JANET ALLEN, GREYHOUND BREEDER AND KENNEL OPERATOR

Mr. Chairman, Members of the Subcommittee, my name is Janet Allen. I am a greyhound breeder and a kennel operator from Phoenix, Ariz., and a member of the NGA's Executive Committee and Legislative Subcommittee.

We wish to have it noted at the outset that the National Greyhound Association, representing the greyhound owners and breeders in this country, is not anti-simulcasting. Anyone who has studied the simulcasting issue knows there are tremendous benefits that can be obtained for our industry through the simulcasting system. It is also clear that simulcasting will play a key and inevitable role in the future of racing.

But with this realization comes concerns about the downside of simulcasting, as outlined in David Brosnan's report.

When the industry began looking for legislation to protect it from the dangers of simulcasting it needed to look no further than the 1978 Interstate Horse Racing Act. Here was a piece of legislation that had been tried and proven, legislation that had cost the government no additional tax dollars, legislation that did not create any new agencies or expand the present bureaucracy. No less than 53 different drafts of that bill had been considered before the horse industry and Congress finally arrived at the one that eventually passed, so we know a lot of homework went into the bill; it was not casually thrown together.

More importantly, the bill has gone through 12 years of trial. Its merits have certainly been tested in that time, when you consider all the revolutionary changes that have occurred in horse racing with regard to simulcasting since the bill's enactment. The horse industry is proud of that legislation and protects it vigilantly—for good reason. The 1978 Interstate Horse Racing Act has succeeded in its intent to allow simulcasting to benefit the sport, while not permitting the negative side of simulcasting to destroy it. Sure, horse racing still has disputes and problems with simulcasting. But there is no question that horse racing is much stronger for having passed the Interstate Horse Racing Act.

The comments made by Kentucky Senator Wendell Ford when that bill was being considered in 1978, as carried in the Congressional record, are so relevant to our cause here today that they bear repeating:

"...those of us who have a vital interest in the future well- being of the Nation's horse industry have been working to draft a piece of legislation to protect that industry against the uncontrolled growth of off-track betting.

"At the same time, we have tried to strike an effective balance by not imposing undue restrictions or unnecessary Federal encroachment on legal off-track betting operations in the United States. Another prime concern was preserving the rights of States to determine their own policies as they related to off-track wagering....

"...the real issue at stake in this measure is not only the health, stability, and long-term economic well-being of horseracing but the entire equine industry in this country. There are more than 23,500 horse farms in the country, some 400 racetracks, and more than 200,000 individuals whose livelihood is directly dependent on horse-racing. Little wonder then that racing is a $13 billion business, with far-reaching implications for many segments of this country's economy.

"The birth of off-track betting operations several years ago raised the specter of unknown, but potentially grave consequences to the future of the horse industry. "As the interest in off-track betting expanded in many areas of the country, it became apparent to those of us concerned about the future of the horse industry that a national policy as it related to off-track betting was needed and, in fact, overdue.

"The proposal now before the Senate would establish such a policy.

"Just what does this measure accomplish?

"It provides for a peaceful coexistence between the racing industry and interstate off-track betting, whenever mutually acceptable arrangements can be worked out between the track and State where racing is held and an off-track betting corporation in another State.

"It keeps Federal involvement at a minimum and does not require any expansion of the Federal bureaucracy.

"It protects the smaller racetracks as well as the larger tracks.

"Finally, it guarantees the right of a State to determine its own policies, so long as they do not interfere with those of another State.

"Let me make it clear that the sole purpose of any restrictive provisions in this measure is to control the unregulated proliferation of off-track betting. This measure maintains regulated off-track betting as a viable option for State consideration as both a revenue raising measure and a means of increasing interest in the sport of racing.

"Let me also emphasize that this is not a bill legislating against off-track betting; rather it is a bill that allows States to protect these revenue-producing industries from outside and illegal competition.

"If we fail to enact this legislation, I feel very strongly that the uncontrolled growth of off-track betting could lead to the demise of many smaller tracks and do irreversible harm to the horse industry and those States which rely heavily on tax revenues from racing.

"...I am convinced that this is a fair and equitable measure which will aid and protect the horse industry, States, and the off-track betting interests. This bill assures the continued vitality of the racing industry, while at the same time establishing the lines of cooperation necessary for the expansion of interstate off-track betting operations. Without this legislation, it is extremely unlikely that the cooperation necessary for the peaceful coexistence of all parties involved can ever be realized."

Those very arguments apply today to our situation in greyhound racing. With the benefit of hindsight, having seen that this bill was indeed what horse racing needed, we have full confidence that this very same bill—except for the fact that S. 1734, of course, deals with greyhounds—is what's needed for greyhound racing today.

Exactly how would the Interstate Greyhound Racing Act provide protection for all involving in greyhound racing? First and foremost—and very simply—it would require that all parties who have any interest in the simulcasting of races must be in agreement with the terms of the simulcasting

procedure if it pertains to an interstate situation. This would include the racing association, the owners' group which represents the majority of owners of greyhounds racing there, and the racing commissions in both the host and off-track states. Permission is also required of an operating track within 60 miles of an off-track betting office (or, if no track is open within 60 miles, the closest currently operating track in an adjoining state).

The bill also states that no off-track betting system may employ a takeout for an interstate wager which is greater than the takeout for corresponding wagering pools of off-track wagers on races run within the off-track state, except, of course, where a greater takeout is authorized by state law in the off-track state.

Violators of the act would be civilly liable for damages to the host state, the host racing association and the greyhound owners' group. The bill spells out the types of damages for each violation in Sec. 6, paragraphs 1 and 2.

Most importantly for the greyhound industry, the bill would immediately correct the blatant unfairness now prevalent that permits the transmission of races without the express written permission of the owners of the greyhounds—in the exact same manner that the Horse Racing Act requires the horse owners' group's permission before their horses can be simulcast. This will guarantee recognition of the greyhound owners' proprietary rights to their racing animals and that they have a voice in how their greyhounds are used in the interstate simulcasting process.

Besides not costing the government a penny, not creating a new governmental agency, and not expanding the existing bureaucracy, there are several other things that the 1989 Interstate Greyhound Racing Act does NOT do.

First, it does not interfere with intrastate simulcasting in a particular state. That authority would continue to rest exclusively with state jurisdictions. Whatever individual states wish to do with regard to simulcasting within a state is up to them.

Second, it does not restrict the expansion of interstate simulcasting in any way. As long as all parties who are affected by the interstate simulcasting process are in agreement with the terms of simulcasting, the program goes forth as before. Look no further than the horse industry for proof of this. Simulcasting—both interstate and intrastate—continues to take place, and in some cases even flourishes, while the Horse Racing Act is in effect.

Third, federal legislation does not interject Congress into the contractual/business relationships between tracks and greyhound groups, nor does it force tracks to negotiate the terms of the racing contracts with their kennels, as some track operators have contended. The lack of any negotiations (as discussed in Gary Guccione's report) is a problem kennel owners have grown accustomed to over the years, and if they wish to resolve it, they need to tackle it on the playing field of each individual state. All S. 1734 does is require terms of interstate simulcast wagering be negotiated among all the parties involved, including the group representing the greyhound owners.

Congress' involvement in any negotiation -including those pertaining to interstate simulcasting—would actually be nil, requiring only that all groups involved negotiate the terms of greyhound simulcasting. The federal government sets no terms insofar as purses, number of races, etc. It only sets forth the guideline that the affected parties must negotiate the terms before interstate simulcasting can take place. Again, looking at the 1978 Horse Racing Act—Congress has not had to involve itself with the private negotiations within the horse industry.

Fourth, the 1989 Interstate Greyhound Racing Act does not encourage the expansion of gaming in states where citizens have not supported such sports (thereby causing law enforcement problems). This contention, made by some track operators, is totally unfounded. To suggest that adding one more chair for greyhound owners at the simulcast negotiating table would lead to expansion and ensuing problems is illogical and preposterous. Nothing is preventing the expansion (in fact, uncontrollable expansion is possible) under the present guideline-less environment, except for the reservations of the individual states. The same would be true under S. 1734.

Finally, S. 1734 does not legalize off-track betting. Period.

Mr. Chairman, Members of the Committee—simulcasting as it's currently being conducted in greyhound racing boils down to a fairness issue. The present system in horse racing, which allows all parties with an interest in interstate simulcasting of horse races, including the horse owners, to negotiate the terms of how their racers will be used in the interstate simulcasting process, is a just and fair one—and has been deemed as such by Congress by virtue of the 1978 Interstate Horse Racing Act. That greyhound owners are not afforded this very same privilege is a blatant inequity. That greyhound owners' proprietary interests are not respected nor protected at the present time when it comes to simulcasting is unfair.

To correct that unfairness, we ask that you support the passage of S. 1734. Thank you.

Senator KASTEN. Thank you, Mr. Allen. We will now hear from Mr. David Brosnan.

STATEMENT OF DAVID J. BROSNAN, CHAIRMAN, SIMULCASTING COMMITTEE, NATIONAL GREYHOUND ASSOCIATION, AND GREYHOUND OWNER AND BREEDER, GLOUCESTER, MA

Mr. BROSNAN. Thank you, Mr. Chairman. My name is Dave Brosnan, and I am from Gloucester, Massachusetts. I have submitted a written statement, and I appreciate the opportunity to submit that statement.

I would like to clarify a couple of points that were raised when we appeared here in August before the subcommittee in the House of Representatives.

There was a question regarding a greyhound race of champions that was held in Multnomah in Oregon this past July. This race is our Kentucky Derby. These greyhounds that eventually ran in this race in Multnomah were the eight best greyhounds in the United States. They came from as far away as Lincoln, Rhode Island, they came from Florida, and they come from Colorado, and I believe one of them also came from the home State of Senator Kasten, from the State of Wisconsin.

There was some question raised by the American Greyhound Track Owners Association if in fact they did share in the purses that were generated by simulcasting. We felt that the purses were not shared by simulcasting, and the track owners indicated that they, in fact, they did.

Consequently, I have an article here from Sports Illustrated, and attached to that is letters from the eight owners of the greyhounds that did compete in that race that indicates that they never did give permission for their dogs to be simulcast and, more importantly, they never shared in the simulcast revenue that was coming in.

Now, these are the eight best dogs in the country, and they were shut out from receiving their—what we feel was their just amount of money. I would like the opportunity to enter this into the record,[1] Mr. Chairman.

And the final point is that our opponents, the track owners of this country, all 52 of them, have indicated that if, in fact, this is an injustice, it is a very small injustice because it only amounts to 1 percent of the handle that was bet on greyhound racing last year in this country.

Last year, in this country, we handled $3.2 billion. Now, the $32 million that was generated in simulcasting to the 52 track operators may seem a very insignificant amount of money, but I can assure you, Mr. Chairman, that to the 6,700 members of our association, the breeders and the owners of these dogs, that is a very significant amount of money, and it is the money that might make the difference between some of these people surviving in our industry and some of them failing.

I do want to thank you for giving us the opportunity to speak before you, and we are available to answer any questions that you feel that you might want to give us.

[The statement follows:]

STATEMENT OF DAVID J. BROSNAN, CHAIRMAN, SIMULCASTING COMMITTEE, NATIONAL GREYHOUND ASSN.

Mr. Chairman, Members of the Subcommittee, thank you for the opportunity to appear and to provide you with this testimony regarding S. 1734, the 1989 Interstate Greyhound Racing Act. I wish to briefly apprise you of the impact simulcasting has thus far had—and could have, in the future—on the sport of greyhound racing, insofar as greyhound owners are concerned. This, of course, has been carried out on a playing field void of any rules, such as those followed by our friends in the horse racing industry as a result of the legislation passed in 1978, the Interstate Horse Racing Act. Finally, I'd also like to briefly address the opposition to this bill voiced by the American Greyhound Track Operators Association.

Simulcasting started out harmlessly enough in greyhound racing. In fact, in the beginning, it was a godsend to the sport in the state of Colorado. In the late 1970s, early 1980s, greyhound racing in Colorado had become somewhat stagnant, with a year-round circuit being conducted at four different tracks. Pari-mutuel handle and attendance figures were not increasing, and greyhound owners were struggling. Only in the summer was the sport closely accessible to the metropolitan population of Denver, consequently that was the only season when purses were lucrative.

[1] The letters were not reporducible.

A simulcasting program was adopted whereby races from any greyhound track in Colorado could be shown and wagered on at all other tracks in Colorado. Wisely, all the monies wagered went into the same pool, giving all the tracks sizeable increases in parimutuel handle. Because all the monies wagered were lumped together, purses increased accordingly, thereby allowing greyhound owners to share in the bonanza of intrastate simulcasting. The gains made by everyone were equitable.

Then came the simulcasting of races into Las Vegas, first by Tucson Greyhound Park, then the Jacksonville, Fla., tracks. Tracks in Rhode Island, South Florida and Oregon were to soon follow, with a number of tracks today still simulcasting races into Nevada casinos. Disseminators are the "middle men" that make the arrangements with the track and the casinos to carry out the simulcasting. They represent the track before the Nevada Gaming Board, take care of various legal requirements, put together the racing program, etc. In most if not all instances, the disseminator pays the track a set fee for each performance. It's our understanding that the fees paid to the tracks by disseminators is modest. The disseminator receives a percentage of the amount wagered at the casinos on the simulcasts. Little or none of the funds derived is paid in purses—certainly not the same percentage of purse that's paid for on-track wagers. Nor is permission obtained from owners to simulcast races involving their greyhounds.

In the last several years, simulcasting became a hotter issue as other tracks explored its feasibility. Southland Greyhound Park in W. Memphis, Ark., which by law could not run live races on Wednesday afternoons, began satelliting races that day from its sister tracks at Seminole, Fla., and Apache Junction, Ariz. The pari-mutuel pools were kept independent, and a lesser purse percentage (3/4 of a percent at first, later upped to 1 percent) was paid in purses to the owners of the greyhounds putting on the show—a much smaller percentage than what was received at their respective tracks for on-site wagering. Further, the owners of greyhounds at Southland received no compensation, even though the new matinee performance on Wednesdays took away from the pari-mutuel handle on live racing on Wednesday nights, thereby actually reducing the purses to Southland greyhound owners. All of the simulcasting was conducted without any negotiations or explicit permission from greyhound owners at any of the tracks involved (Seminole, Apache or Southland).

For several years, races from the Lincoln Track in Rhode Island were simulcast into the two smaller tracks at South Dakota, one at Sodrac Park in Sioux City, the other at Black Hills Track in Rapid City. The pari-mutuel pools were kept independent of each other. By action of the State Racing Commission, 1.5 percent of the simulcast handle had to go to the kennels that raced at the South Dakota tracks (more than 3 percent went to purses from live racing). At Sodrac, the figure allocated was actually deducted from the kennels' meat bills with the track, while at Rapid City, the amount was paid in the form of a $1 lead-out fee (each time a kennel had an entry the track paid the kennel $1, regardless how the greyhound performed) with the balance being paid in one check at the end of the season. It's doubtful that any of the monies derived from simulcasting made its way into the pockets of the actual owners of the greyhounds.

As for the greyhounds at Lincoln—the ones putting on the simulcast show—Lincoln Greyhound Park advised NGA in 1989 that it would begin to pay a purse percentage to kennel operators (1 percent) of wagers placed via simulcasting at the South Dakota tracks. Prior to that Lincoln had charged $500 a performance from the Rapid City tracks to link up, but in 1989 that was to have been changed to a percentage of the handle (4 percent), according to the Rapid City track's general manager. Kennel operators at Lincoln, however, have advised that weeKly purse sheets have never indicated whether a purse from the simulcast races into South Dakota has ever been paid to the owners of the Lincoln greyhounds. As in all the other instances mentioned, no permission was ever sought from or given by the owners or kennel operators of the greyhounds at any of the tracks involved—Lincoln, Sodrac or the Black Hills. More recently, the Lincoln simulcasting has been replaced with simulcasting from South Florida and nearby Iowa.

On numerous occasions, major stake races are simulcast to a variety of tracks around the country. The Kentucky Derby has even been simulcast into a greyhound track (Multnomah in Portland, Ore.) while live racing has been going on. The stake purse is rarely, if ever, supplemented by simulcast revenues, though most receiving tracks will pay a percentage of the simulcast handle on the race into their the purses of greyhounds racing at their tracks. Nonetheless, in every instance this practice occurs without consultation with or permission from the greyhounds' owners at either the host or receiving tracks.

Statistics released by Gaming & Wagering Business Magazine show that off-track wagering on greyhound racing in 1989 was $28,571,564. Keep in mind that this figure does not include those jurisdictions that lump intrastate simulcast wagering into the same parimutuel pool (all, or nearly all of them,as best we can surmise), nor would it include the Nevada simulcasting into casinos. That may not seem like a significant amount, but consider that it represents a 73.63 percent increase in the figure from 1988.

Clearly the trend is toward more and more simulcasting in the future. Just in recent days came news that the tracks in Council Bluffs, Iowa, N. Sioux City, South Dakota, and Rapid City, South Dakota, had entered into a contractual agreement whereby races would be simulcast—interstate—from the Iowa track to the two South Dakota tracks and their numerous satellites. Once again, it was done without permission of the greyhound owners. And once again, it was done without any regular purse money designated for the greyhounds that put on the simulcasting

show. Even more late-breaking is talk about a possible multi-state simulcasting system of tracks—similar to what many states have gone to with the lottery—where all the moneys wagered would go into one pari-mutuel pool. It may be a terrific system, and it may even be beneficial to the sport. But greyhound owners need to have voice in this matter.

What role will simulcasting play in greyhound racing in the future? It's the near-unanimous thinking of most racing officials and experts that the expansion of simulcasting is inevitable—and the events of recent weeks bear this out. The new challenges that face greyhound racing today have in most cases already been encountered by the horse racing industry, and if that's the case with simulcasting—and we think it is—then we can brace ourselves for a torrent of new simulcasting situations in the sport of greyhound racing in the decade ahead.

If simulcasting were to ever get completely out of control, it could mean the closure of many racetracks. That may seem like an inconceivable notion, but consider the words of no less an authority that Lou Derteen, former general manager at Southland Greyhound Park and a veteran official in the greyhound industry. In the May 1989 issue of GREYHOUND UPDATE and the April 1989 issue of The GREYHOUND REVIEW, Derteen said that the day may be coming (as early as the year 2000) when only eight major tracks would be in existence—two in each time zone—with simulcasting from these tracks replacing live racing at other facilities.

Even if that were to only partially come to pass, the effect on the industry would be devastating. Fewer tracks would mean fewer jobs, lost tax revenues and, of course, fewer greyhounds. Eight tracks (15 percent of what we have today) would spell a drastic decline in the demand for racing greyhounds and would absolutely devastate the greyhound breeding industry. This year, greyhound owners will spend about $95 million just to raise the greyhounds from birth to track-age and another $55 million to care for the greyhounds each year at the racetrack (based on $2,500 per greyhound to raise from birth to track age, and $5 per day for greyhounds at the racetrack). Simulcasting, if left unchecked, has the potential of decimating that industry and displacing tens of thousands of people who depend on greyhound racing for their income and livelihood.

Some—but not all—track operators pooh-pooh Lou Derteen's vision of two greyhound tracks in each time zone by the year 2000. Greyhound owners, however, listen to his prophecies much more seriously. The 73 percent increase in simulcasting from 1988 to 1989 justifies that concern. How much expansion will there be by 1992? By 1995? If similar increases in growth are experienced the next couple of years then, to paraphrase Senator Dirksen, before long we'll be talking about a lot of money.

Regardless of the figure, the fact the practice of simulcasting has at least some impact on thousands of greyhound owners and breeders should be grounds enough for passage of S. 1734. Two other points we ask that you consider: First—as has been pointed out before-S. 1734 will not increase the federal budget or expand the federal bureaucracy. That being the case, then the amount presently wagered on simulcasting should be of little or no consequence. One's proprietary rights are being violated, whether it's for a million dollars or one dollar. Second, the precedent of preserving the proprietary rights of horse owners in cases involving interstate simulcasting has already been set. by virtue of the 1978 Horse Racing Act.

We agree with the opinion of most in the industry that simulcasting will grow by leaps and bounds in the years ahead. Despite all the growth we hear about in greyhound racing, most of the growth has been the result of expansion into new states or increases in racing dates. In most cases, the average daily attendance and handle has actually declined in the last few years. Increased competition for the entertainment dollar is one big reason for that decline.

As this trend continues, tracks will explore every possible alternative to revive those attendance and pari-mutuel figures, which most assuredly will encompass the practice of simulcasting. The gurus of racing encourage the adoption of simulcasting at every opportunity, to meet the growing competition for the entertainment dollar. As horse racing has shown, simulcasting is the wave of the future. If our sport follows horse racing insofar as trends are concerned (and it generally does), then horse racing's $11 billion wagered onsite, compared with its $2 billion off- site, will translate to a $3.2 billion/$58 million ratio in greyhound racing ($58 million being what would be wagered via simulcasting on greyhound racing). This is no paltry figure—and there's every indication, with the likely expansion of greyhound racing into new states, that the increase will be even greater.

Simulcasting is a serious concern to the greyhound owner and breeder. In fact, in a 1989 poll taken by the National Greyhound Association of its 6,700 members—the NGA membership being the greyhound owners and breeders in this country—the issue cited as the most important of the upcoming decade was simulcasting. Based on what has gone on so far with simulcasting in greyhound racing, their concerns are well founded.

What has been done to remedy the problem within the industry? The National Greyhound Association, representing the owners and breeders, has met on numerous occasions with track operators to discuss concerns about simulcasting. NGA formulated a position highlighting two areas of greatest concern: (1) the fair and equitable sharing by all directly involved in racing, including the greyhound owners and breeders, of the benefits that are derived from simulcasting, and (2) the avoidance of any simulcasting that would threaten or curtail live greyhound racing in a particular area. To the frustration of owners and breeders, their pleas have fallen on deaf ears. With no federal or state guidelines on this matter, track operators have not felt the compelling need to do what's fair

for all industry segments. Owners and breeders were thus left with no other recourse but to seek federal guidelines to protect their proprietary interests insofar as simulcasting is concerned.

So it was no surprise to see AGTOA take the position of opposing S. 1734. We wish to respond to their five main objections to the bill at this time.

1. The greyhound industry differs markedly from the horse racing industry. Certainly our industries have some differences, but they're insignificant and irrelevant to the issue at hand (i.e., simulcasting). AGTOA says that greyhound racing does not face the same concern horse racing had with regard to simulcasting—that is, the fear that it would ruin the horse racing industry. Although simulcasting may not be a fear with some track operators in the industry, it certainly is a fear with greyhound owners and breeders, as we have conveyed. And, as Mr. Joe Sullivan, owner and operator of Hinsdale Greyhound Track, has pointed out in his letter (copy attached), it's also a concern among other track operators. Some of these track operators, including members of AGTOA, have informally and confidentially expressed their concerns about simulcasting's impact on the future of greyhound racing.

As for AGTOA's statements that simulcasting has saved tracks from closing—NGA has never disputed the potential benefits of simulcasting. Certainly it can help save some smaller tracks that are having financial problems. We also make it clear that we are not opposed to the principle of simulcasting. It is when simulcasting is conducted without the permission of the greyhound owners that the NGA must raise objections.

2. The greyhound industry is prospering without any federal intervention. We briefly touched upon this issue a few moments ago. The implication by AGTOA is that horse racing's growth has been stymied by federal intervention (i.e., the Interstate Horse Racing Act), while greyhound racing has flourished because there exists no such act for our sport. There really is no connection. Horse racing has shown little growth for three reasons (none of which is federal intervention): first, because it's been in most states for a number of years, with little room for expansion into new jurisdictions; second, because of the fierce and growing competition for the entertainment dollar that is causing stagnation or even a loss in daily average attendance and pari-mutuel handle figures, and third, because the cost of operating a horse track is much greater than operating a greyhound track, thus further limiting expansion into areas other than major markets.

A closer look at greyhound racing's growth indicates it to largely be the result of expansion into new states (thus, horizontal growth rather than vertical). In the last 20 years, the number of states with greyhound racing has increased from 7 to 17 (soon to be 19) and the number of tracks has risen from 36 to 54 (possibly 60 by next year). So the impressive growth figures you see on greyhound racing are the result of an increasing number of tracks in an increasing number of states—as well as an increase in the number of racing dates at already existing tracks. It's noteworthy that a greyhound track can sustain itself in a city the size of Wichita, Kansas, or Wheeling, West Virginia, while horse racing cannot—another reason we've seen more greyhound tracks built than horse tracks in recent years. In reality, greyhound tracks that have been in existence for more than five years are experiencing the exact same concerns as horse tracks: stagnant attendance and pari-mutuel handle statistics due to the increasing competition for the entertainment dollar.

What's most important to remember here is that none of the major fluctuations in growth in either sport—horse or greyhound racing-has to do with government intervention or non-intervention. After all, the Interstate Horse Racing Act is not really intervention: it only sets up parameters whereby all groups involved must agree on the terms of interstate simulcasting. In no way does it establish the terms of the simulcasting or interfere with the state's rights to offer the type and amount of wagering it wishes. S. 1734 would do exactly the same thing.

3. S 1734 would operate like a "private relief" bill for greyhound dog owners. Track operators will frequently refer to the negotiations and bargaining that goes on between the tracks and the greyhound owners. In reality. no such negotiating or bargaining exists. Contracts are offered by tracks to kennels on a take-it-or-leave-it basis. Nor are we urging Congress to intervene in these "negotiations". But when the situation arises that involves the simulcasting of races across state lines without the permission of the owners, then Congress should at least establish guidelines whereby all the parties affected have a chair at the negotiating table. The precedent on this has been established through the 1978 Interstate Horse Racing Act.

The tracks assert they are not "heartless profiteers" or "robber barons", therefore government intervention is not necessary. Although some may argue about the benevolence of greyhound track operators, this is not the question at hand. The real issue is whether greyhound owners have the right to negotiate the terms of interstate simulcasting if it involves their greyhounds. Clearly the Interstate Horse Racing Act indicates Congress feels the owners of racing animals used for pari-mutuel wagering should have that privilege. So do greyhound owners.

4. S. 1734 would create new possibilities for federal litigation at a time when the court system is already burdened. This is simply not true. In the 13-year period that the Interstate Horse Racing Act has been in effect, only one case involving the act has been brought before the federal courts. One case in 13 years can hardly be viewed as an additional burden on the courts.

5. S. 1734 inappropriately involves the federal government In what has traditionally been considered a province of the states. By all means, the states have regulated-and should continue to

regulate-the types and quantity of wagering in their respective states. S. 1734 does not interfere with that privilege in any way.

Furthermore states should—and would, even under S. 1734-have the right to determine simulcasting programs within their own state boundaries.

The issue here is not a wagering or gaming issue within a state's own jurisdiction, but rather, a fairness issue, as it pertains to simulcasting across state lines (interstate). As for tradition—the 1978 Interstate Horse Racing Act is the standard that was set by Congress 13 years ago; we only ask that it be extended equally to all, including greyhound owners.

We respect the views of the Commission on the Review of the National Policy Toward Gambling, when it stated in 1976 that the federal government should be reluctant to interfere with state gambling policies. But S. 1734 is not a gambling bill: it does not encourage or discourage a state from offering whatever type of gambling it wishes to have, nor how much it should offer. Those are strictly state issues. S. 1734 is a fairness bill. It does not interfere with a state's gambling policies.

In conclusion, we ask that greyhound owners be afforded the same fairness and equity already granted to the owners and breeders of race horses. This can be accomplished through passage of the Interstate Greyhound Racing Act.

Thank you.

Senator BREAUX. I thank all three of you for being with us and for making your case. You are right; it is not a new problem. In 1978, Congress addressed this very same problem that was presented to Congress dealing with horse racing, and I guess it is legitimate, at least in my opinion, for Congress to be involved, because we are talking only about the interstate broadcasting of these events.

I do not know if you are the right people to ask, but do you all know or not know whether the horse racing industry, under these rules and regulations, is working well or are they having problems with these rules and regulations, particularly with regard to the simulcast of horse racing?

Mr. BROSNAN. From all indications, the horse people are very happy with this. There was some questions if this would cause, when the Interstate Horse Racing Act was passed back in the 1970's, if this was going to tie up the Federal courts.

During the past 12 years that this bill has been effective, meaning the horse racing bill, there has only been one case that has ended up in the courts. They seem very satisfied with it, and consequently there has been no court battles over it.

Mr. GUCCIONE. Mr. Chairman, if I may comment on that, too.

Senator BREAUX. Mr. Guccione.

Mr. GUCCIONE. The bargaining group for the horse race owners has generally been the Horsemen's Benevolent and Protective Association (HBPA), and they have established a set of terms that are accepted at the racetracks from around the country. So it is not a case of a problem in this area or that area. There is one general contract that is used that the industry has pretty much agreed to, so there has not been any significant or many problems involving simulcasting.

Senator BREAUX. Is there pretty much a standard fee that has been worked out. Is that what you are saying?

Mr. GUCCIONE. Yes.

Senator BREAUX. Okay. Let me ask you a few questions about how contracts and agreements for simulcasting currently are arranged in the industry. For instance, when someone wants to work out an agreement to broadcast a greyhound race from State A and broadcast it in State B, under current conditions, with whom would the person in State B who wants to broadcast the race and allow betting on it in State B, attempt to work out the agreement with? The racing commission and the track owner, or just the track owner? Who is involved under the current situation?

Mr. GUCCIONE. Generally, Mr. Chairman, they will get the approval of the racing commission, and that is not difficult to do, because most State laws do not even address the issue of simulcasting. It will be an arrangement worked out

between the receiving entity, whether it is a track or a casino in Nevada or a theater, and the generating site, the track where the actual race is going on.

Senator BREAUX. Under the way things are working now, who would normally get any financial benefits from the simulcast broadcast in another State? Would it be the State racing commission in the State or the track owners?

Mr. GUCCIONE. I believe the States are taxing it at the same rate that they are taxing currently under live racing, so they would be getting their usual 5, 6 percent, whatever that might be, and then any profits that are coming from it are generally being divided in varying amounts between the two, the sending track and the receiving track or facility.

Senator BREAUX. Okay, my final point would be that what you all are requesting is the same type of procedure that is currently required for the simulcast broadcast of horse racing events?

Mr. GUCCIONE. Exactly. It is the same bill except for the juxtaposition of greyhound racing with horse racing.

Senator BREAUX. In other words, had Congress in 1978, when it dealt with this problem dealing with the horse racing industry, added dog racing, it would have solved your problem at the time.

Mr. GUCCIONE. Yes.

Senator BREAUX. All right.

Senator Kasten, do you have any questions?

Senator KASTEN. Mr. Chairman, thank you.

What is the difference between the horse racing industry in 1978 and the dog racing industry today? I understand that in 1978 the laws that were passed were passed virtually unanimously here without much debate, because the various parties involved all were urging the Congress to act.

In this case it seems that, at least from the very limited information that I have, there is at least some concern on the part of some of the track owners or the people that are operating tracks, at least in Wisconsin.

Is it because there are more horse tracks than dog tracks? Why did all horse racing groups support the legislation in 1978 and, at least now, the dog racing track people are either opposed to or at least not in support of this legislation. What is the difference between now and then, in 1978 and now, dogs and horses?

Mr. BROSNAN. Senator, in 1978, when the Interstate Horse Racing Act was passed, there was the third Congress that had been passed—they had been tried to go through. They had filed that for 5 previous years. That was not something that was just happily, you know, holding hands together and walking down the aisle, saying we agree with this. This was after 5 years of very intense——

Senator KASTEN. 5 years of working and campaigning by the horse owners——

Mr. BROSNAN. By the horse owners——

Senator KASTEN.——in a campaign.

Mr. BROSNAN.——in this country, yes. We certainly hope it is not going to take us 5 years to get equality. I think what the tracks are trying to say to us is that, you know, it is a small amount, you know, trust us. Well, unfortunately, we do not feel that the, you know, $32 million a year that they are taking the purses away from us, is a small amount.

They are saying it is insignificant. Yes, it might be insignificant to them, but if they are showing an increase that they have shown over the last couple of years, what is it going to be 5 years from now? Are they going to put us all out of business?

Senator KASTEN. Mrs. Allen, you said something that I did not understand. You said that you were losing control of where your dogs were racing, that under certain circumstances you would not even know where they were racing?

Ms. ALLEN. That is correct.

Senator KASTEN. How is that, I mean if it is simulcast, does it not say coming from track XYZ in Milwaukee, Wisconsin?

Ms. ALLEN. Okay, for example, for example, my dogs race at Phoenix Greyhound Park. If, for example—well, I did have some racing at Apache when they were simulcasting them into West Memphis. I did not know that. But——

Senator KASTEN. You are saying that you know where they are racing, you just do not know where they might be simulcast to.

Ms. ALLEN. Oh, I know where my live—I do not know where they would be simulcast to, right.

Senator KASTEN. Okay, I can understand that. That is not what you said.

Ms. ALLEN. Okay, and there is a pool created—say, for example, that my greyhounds are simulcast into Arkansas. There is a pool created and they gamble on those dogs in Arkansas. Okay, I do not get anything.

They are using my animals to go into another State. I do not get anything, and not only do I not get anything, they are cutting into the gambling pool in Arkansas, and those people who are doing live racing there do not get anything. It all goes to the racetrack. And I do not—I would not even know where they would be simulcasting these races.

Senator KASTEN. I understand you do not know where they are being simulcast to. I think you said before—I was not sure—where your dogs would be racing, and you would not know that.

Mr. BROSNAN. Excuse me, Senator, one point before you go on. You mentioned the fact that the track owners are all in accord that they do not want this passed.

Senator KASTEN. No, I am not sure that they are. I am just saying that I have heard from a few, and I asked you why there was agreement and you said there was not agreement initially. And evidently what happened is that the parties, beginning in 1973 or 1974, started working together, and in 1978 they reached a compromise and it came together.

Mr. BROSNAN. We also have a letter here from one of the track operators, Mr. Sullivan, who owns and operates the Hinsdale Greyhound Racing Association, who is—in the State of New Hampshire—who is in total accord with our position and does support our bill. I do have a copy, and I believe it has been entered into the record already.

Senator BREAUX. Without objection, it will be entered into the record.

Senator KASTEN. Let me just ask two other questions. As I have said, I am trying to learn. How are you compensated now for races that are simulcast? Is there absolutely no compensation for any one under any circumstances? Or in certain cases, is there compensation, in other cases there is not? What is the situation right now? Are you completely frozen out of any and all?

Mr. GUCCIONE. Originally, the simulcasting, when it started in Colorado, was a good thing in that all of the monies wagered at the satellite sites went into the same pool. And those monies for purses, likewise, came out of that same total pool, and that was great.

Senator KASTEN. So it was just like expanding the audience that was sitting at the track.

Mr. GUCCIONE. Yes. And that was an intrastate situation. But thereafter, when it began spreading to interstate, initially there was no compensation from that. Thereafter, some of the parties that were practicing it provided a small or

token-type purse, nothing comparable to the percentage that is paid in the regular purse on the monies wagered at the live site.

Senator KASTEN. Why did some of the people do that—was that a process of negotiation between the owners or did they just do it out of the goodness of their heart? What took place in order to have that compensation and why was it set at the so-called—you just used the word token amount as opposed to a larger amount?

Mr. GUCCIONE. I think it started because of the rumblings of greyhound owners and breeders to State racing commissions, and in an effort to appease in some form or fashion, a small percentage or token was paid on the simulcasting. The percentage of the purse is about 3.5, 4 percent of the pari-mutuel handle. Currently in Iowa, where there is simulcasting going on, they are paying only one-half of the percentage that is being paid at the live racing facility. The greyhound owners feel that, whether that amount is right or wrong, they ought to at least be able to sit at the table and negotiate the terms of that.

Senator KASTEN. That is what I was trying to get at. Did you sit at the table and negotiate in Colorado or did people just decide this is the way it is going to be?

Mr. GUCCIONE. No, we did not. We have made many efforts to go to the table and talk with the track operators about that, but this has not proven successful. In many cases, the simulcasting, as Ms. Allen said, goes on without the owner ever even knowing it.

There was one case where a track was telling the greyhound owners that it was paying some purse on the monies derived from simulcasting interstate, but it never showed up on the purse sheets in any form or fashion, and the owners, because of the booking system I mentioned to you earlier, are not really in a good position of strength to go to the tracks and discuss such matters and try to get their fair share of the amount.

Senator KASTEN. Generally speaking, as simulcasting is going on, are owners getting compensated less and less and less, or are these kinds of voluntary agreements increasing and owners are being compensated more and more and more? What is the trend?

Mr. GUCCIONE. I would say that it has leveled off in the last year or two.

Senator KASTEN. So the problem is not worse than it was before, but there is relatively more simulcasting than there was before?

Mr. GUCCIONE. More simulcasting, that is the problem.

Senator KASTEN. But the share is probably about what it has been, is that what you are saying?

Mr. GUCCIONE. Yes.

Senator KASTEN. All right, let me ask just one other question.

Mr. Brosnan, in your testimony, you talk about the basic concept that pretty soon we are going to be down to one or two tracks in the country and I understand what you are trying to get at.

Why would it be in the track owners' interest to get down to one or two tracks in the country? It seems to me that they are as interested in—they have got to be as interested in more and more tracks in the country as you have to be interested in more and more tracks in the country.

Mr. BROSNAN. I agree they should be sharing that, but when you have an authority like we are quoting there, that is not something that we made up. We are quoting something that Lou Derteen, who is in a very high-ranking position with Delaware North, who happens to be the biggest single track operator in this country, we are quoting him.

He is quoted in an independent greyhound publication in May of 1989—I am sorry, May of 1988, where he envisions, with simulcasting, there will be two tracks in each time zone in this country. They will then simulcast them to the rest of the country, meaning that you could set them up in a climate such as Florida and then simulcast them to the entire Northeast. You could set one up in the, say, the Louisiana area.

Senator KASTEN. Why—how in the world would dog track owners, in your State of Massachusetts or my State of Wisconsin, benefit from that? Would they not be actively opposed to anything like that that you talk about here?

Mr. BROSNAN. I agree, if you had independent track operators, but you are seeing more and more of multiple ownership by a single entity. You just said, I believe, it is United Tote that came in from England and just bought three tracks in Colorado, one in South Dakota, and one in Rhode Island. You have Delaware North that owns seven or eight tracks.

It would be very nice for them to be out and only have to pay purses on thee track in Florida and simulcast it into the other states and not have to pay any purses at all. That would give them an added 3.5 or 4 percent of profit where they are cutting out the owners of the dogs.

Senator KASTEN. What you are saying is that there is such concentration of power developing in the industry, that there may be only a small handful of track owners in the future. And they would agree that there should only be a few races and they would all be simulcast. Is that your answer to my question?

Mr. BROSNAN. Yes, sir.

Senator KASTEN. That you are worried about the concentration?

Is there similar concentration of power and ownership among horse tracks?

Mr. BROSNAN. I really do not know, Senator. I am not that familiar with the horse racing industry.

Mr. GUCCIONE. Senator, it is—yes, it is much more diversified in horse racing. Also, an independent tank owner that may not be in one of these big groups in greyhound racing may find it much more to his advantage to run a track by satellite, by running all of the races on TV, stemming from some other site, because, as Mr. Brosnan said, he is not having to pay purses, he is not having to pay any race track personnel. He is not even having to maintain the upkeep of a racetrack, of the oval itself. There are lots of financial benefits to simulcasting.

Senator KASTEN. Thank you, Mr. Chairman.

Senator BREAUX. Senator Burns.

Senator BURNS. We do not have dog racing in Montana. We have a lot of horse racing.

Senator KASTEN. That is why you do not have dog racing.

Senator BURNS. That is exactly right.

It is kind of like blood and water. They do not mix, or water and oil, I might say. They do not mix too much.

I am familiar with pari-mutuel thoroughbred and quarterhorse racing. And what I am hearing is that a track, such as one in Colorado, can give permission to, maybe not a track owner, but an entity in Billings, Montana—we do have pari- mutuel betting up there, so he would apply to the racing commission, to run pari-mutuel betting but it is going to be on the dogs and it is going to be located on such and such, and he can pay a handle.

Now, he is going to have to pay a fee to the owner of the track in Colorado, is that correct?

Mr. GUCCIONE. Usually, or a percentage of what is handled, yes.

Senator BURNS. Okay, but if he does not report, he can go up and say—he can go to an owner and say—or a track owner and say, for X amount of dollars, I will do your simulcast. Can he do that?

Mr. GUCCIONE. He can do it, of course, as you mentioned, he has to get it cleared through the State. The track in Colorado would have to agree to it.

Senator BURNS. That is what I am saying, but the track in Colorado is amenable. He said I am going to sell you next Saturday's race meet for $5,000.

Mr. GUCCIONE. Right.

Senator BURNS. He can do that, as long as he has the permission and a license from the State of Montana to hold pari-mutuel betting.

Mr. GUCCIONE. Yes.

Senator BURNS. And he can have people down there and he can serve a little food and people can bet on the dogs.

Mr. GUCCIONE. Yes.

Senator BURNS. Now, his handle there, he does not have to share that if it is a flat contract with the track in Colorado, is that true?

Mr. GUCCIONE. If he has paid a flat fee and that is what they have arranged, yes, that is true.

Senator BURNS. Okay. Now, that $5,000 that he paid the track in Colorado, that owner can, or he may not choose to, share that $5,000 with the dog owners at that track at that day, is that correct?

Mr. GUCCIONE. Yes.

Senator BURNS. Under present law.

Mr. GUCCIONE. Under the present condition, yes.

Senator BURNS. The State of Colorado, when they come in, and I know they audit this man that runs the track, they audit your books and make sure you do everything, the breakage goes to the right place and all of that.

There is nothing in Colorado law that says that that money has to be shared with the owners of that track.

Mr. GUCCIONE. Yes, that is true.

Senator BURNS. Have you tried to get the Colorado law changed so that they would have to, rather than the national legislation?

Mr. GUCCIONE. Well, in Colorado, which I think you are just using as an example——

Senator BURNS. I am just using an example. Let us use South Dakota and Montana. They are both of them——

Mr. GUCCIONE. Efforts have been made and are still being made to address that at a state level. In Iowa, that has been attempted; in Kansas, it is being attempted. But it is a problem that is nationwide and it is a problem that, since Congress has already dealt with it in horse racing at a national level, we felt that this was the best approach, to deal with it at a national level.

Senator BURNS. Give me an idea of one Saturday race meet at the dog track at Sioux Falls, South Dakota, or Sioux City, Iowa, outside of Sioux City, I guess they have a dog track, do they not?

Mr. GUCCIONE. Yes.

Senator BURNS. The handle there, compared to a horse race, is the handle higher on dogs or lower on dogs than it would be on horses, comparably?

Mr. GUCCIONE. SODRAC is the name of the track. SODRAC is one of the smallest tracks in the country, so the handle would be relatively small. But there are some major greyhound tracks that handle upwards of two-thirds of a million dollars a night, and unlike horse racing, which generally would run three or four or five performances at most a week, the greyhounds will run possibly as many

as 9 or 10 or 11 programs a week and maintain that high average attendance and pari-mutuel handle.

Senator BURNS. Okay, now, and how many races would that be in one setting?

Mr. GUCCIONE. The average is 12 or 13.

Senator BURNS. 12 or 13 races, okay.

Mr. GUCCIONE. Per performance, yes. Senator, excuse me——

Senator BURNS. I am sorry, go ahead.

Mr. GUCCIONE. I was just going to mention to you, about Montana. As a native of Montana, born in Butte——

Senator BURNS. Now, do not let anybody know about that.

Mr. GUCCIONE. But I moved.

Senator BURNS. Okay.

It does not make a difference. I have 34 percent of the vote in Butte. It is pretty Democratic all right.

Mr. GUCCIONE. Yes, it is.

It certainly is. I think my uncles probably voted for you then.

And then I moved to Great Falls and Missoula. Being somewhat aware of the racing industry——

Senator BURNS. You were not improving much, but go ahead.

Mr. GUCCIONE. Uh-oh, uh-oh.

But being somewhat familiar with the horse racing industry in Montana, I know that there is a network of simulcasting there and in North Dakota, South Dakota, Wyoming, and even into Canada.

Senator BURNS. On dogs or horses, I am sorry?

Mr. GUCCIONE. This is horses.

Senator BURNS. Yeah, I have never seen a dog race simulcast.

Mr. GUCCIONE. And it is all run of the auspices under this 1978 horse racing act, and there are no problems with that. There is no contention. They have the standard contracts and agreements, and that is merely what we are asking for.

Senator BURNS. Do you think—and I am going back to Mr. Brosnan's comments—that the big and powerful shall reign and the little tracks shall fade away if simulcasting is allowed. Some would say, well, let us keep it right here so everybody has to come to our track and sell our hot dogs, buy our hot dogs, and enjoy the dogs here and not let any kind of a broadcast out.

Is there anybody in your industry who ever talks about that kind of a situation, where no simulcasting is allowed at all?

Mr. GUCCIONE. Yes, I think Mr. Sullivan, who Dave mentioned, is one of those people with that philosophy. And they are a number that share that philosophy among the track operators in the country, that they do not want to have anything to do with it, they want to maintain their local track, sell the hot dogs, the parking tickets and whatnot, and continue on that way.

But the larger—the larger groups, the ones that have ownership in different States, the Delaware Norths, United Tote, which is in partnership now with an outfit in England that is very, very well versed and experienced on simulcasting and offtrack betting, have what appears to be grandiose plans of simulcasting in a large degree in networks in multiple States.

Senator BURNS. While we are talking about that, I will just enlighten the committee that United Tote was started in a little town in Montana, population 20—no kidding—and they are now, I think, working around 200 people out there, and they supply totalizator equipment worldwide now.

It is one of the big industries in the State of Montana—it is all computerized and all this—a guy got tired of feeding cattle—I know where that farm is. And

the guy says, the hell with this, I am going to do something that makes money, and he has done well.

I have no further questions. I have a sort of an understanding of this issue, but I know that there are people who have not been around pari-mutuel. I have been around horses all my life, but I have never had much to do with dogs.

Thank you, Mr. Chairman.

Senator BREAUX. Well, I wanted to have the hearing so we would have an opportunity to hear from you. I know the House has progressed with this, I think, through the committee. Our committee record will remain open for any of the track owners who would like to submit a statement on the question, and we will determine what needs to be done on the legislation.

I think you have made a good case. I appreciate very much you taking the time to be present with us today.

With that, the committee will be in adjournment until further call of the chair.

[Whereupon, at 2:54 p.m., the hearing was adjourned.]

HINDSDALE GREYHOUND RACING ASSOCIATION, INC.,
Hindsdale, NH, July 26, 1990.

MR. DAVE BROSNAN
NATIONAL GREYHOUND ASSOCIATION
Gloucester, MA 01930

Dear Mr. Brosnan: Thank you for advising me of the hearing scheduled by the Subcommittee on Commerce, Consumer Protection, and Competitiveness of the Committee on Energy and Commerce, U.S. House of Representatives.

I am sorry I will not be able to attend the August 1, 1990, hearings however, I endorse H.R. 3429, the Interstate Greyhound Racing Act, because its provisions are essential to the future of the greyhound racetrack owner and operator, as well as the owners of the greyhounds themselves.

I strongly support the provisions of H.R. 3429, especially where the bill gives greyhound owners the right to participate in the negotiating process regarding simulcasting. As you know, the Interstate Horseracing Act of 1978, passed by the U.S Congress, has established the position that horse owners shall be represented in all interstate simulcasting negotiations. As a track owner I believe it is only fair that all segments of grey-hound racing have a say so in the simulcasting process. This includes the greyhound owner as well as the owner of the track where the greyhounds race.

In summary, let me say that this track owner/operator fully supports H.R. 3429, and I trust you will use this letter as you see fit in the course of your testimony before the U.S. Congress.

Sincerely,

JOSEPH E. SULLIVAN, III, *President*.

STATEMENT OF MULTNOMAH KENNEL CLUB, INC., AND AMERICAN GREYHOUND TRACK OPERATORS ASSN.

Dear Senator Hollings: we wish to go on record with our vigorous and complete opposition to Senate Bill 1734. The basic position of the Association and of our client is set forth on the attached fact sheet.

This bill is an attempt by greyhound owners to give the owners total and complete control of interstate greyhound simulcasting of races throughout the country.

It prevents the State Racing Commission from acting as the final decision maker.

It arbitrarily puts road blocks into a process that is otherwise running satisfactorily.

Neither the greyhound owners nor the track operators should be able to mandate how interstate simulcasting is done nor how the purses should be split. The State Racing Commission must be the final arbiter and decision maker of disputes, if any, arise.

This bill has been poorly thought out, is not necessary, and is special interest legislation giving the greyhound owners veto power over a small segment of the greyhound business. Hon. Ernest Hollings October 10, 1990 Page 2 We urge that the bill be defeated and that these decisions be left with the individual state racing commissions as is presently the case. This bill has been scheduled for a hearing on extremely short notice and at a time when knowledgeable trackowners within reasonable distances of Washington D.C. are all at the Greyhound meetings in Great Britain, and they are unable to attend or testify.

FACT SHEET

The American Greyhound Track Operators Association ("AGTOA"), the only national organization representing greyhound tracks in the United States, opposes passage of the Interstate Greyhound Racing Act of 1989.

BACKGROUND

The Interstate Greyhound Racing Act of 1989 ("IGRA"), introduced by Senator Breaux (D-La), S. 1734 and Congressman Slattery (D-Ka), H.R. 3429, would regulate interstate off-track betting ("OTB") in one state on races in another state. (In most instances OTB takes the form of electronic simulcasting.) The essence of IGRA is consent. In order for an interstate wager on greyhound race to occur, consent must be obtained from the host track, host racing commission and off-track racing commission. The crux of IGRA is the federal mandate that before the host track may consent, it must first obtain the consent of the greyhound owner's group. Any person who accepts an off-track wager without obtaining this consent will be civilly liable for damages to the host racing association, host state, and the greyhound owner's groups. The federal district courts would have jurisdiction over such disputes, regardless of the amount in controversy.

On August 1, 1990, the House Subcommittee on Commerce, Consumer Protection, and Competitiveness held hearings on IGRA. No hearings have been held in the Senate.

AGTOA POSITION

AGTOA is opposed to this legislation for five central reasons: (1) While the legislation is modeled after the Interstate Horse Racing Act of 1978 ("IHRA") the circumstances that prompted passage of the IHRA twelve years ago do not face the greyhound industry today. IHRA was prompted by a united horse industry's fear of the effects that OTB would have on the live horseracing, and congressional concern over problems with state cooperation. In contrast, the greyhound industry is divided in its view of IGRA and faces no threat from OTB or problems with state cooperation.

(2) The greyhound industry has prospered under simulcasting and without federal regulation. In the ten year period since the passage of IHRA, the greyhound industry has grown by 190% without federal intervention while the horse industry has grown by less than 16% with such intervention.

(3) The IGRA would function as a "private relief" bill for dog owners. In most cases, dog owners already benefit from the larger pools that result from simulcasting. For example, the Lincoln Track in Rhode Island where most simulcasting originates, dog owners receive one percent of the pool from races simulcast to South Dakota and 25% of the fee from races simulcast to Las Vegas.

(4) By allowing all disputes under the IGRA to be resolved in the federal district courts regardless of the amount in controversy, IGRA would create new possibilities for federal litigation at a time when the court system is already burdened.

(5) Regulation of greyhound racing is properly the business of the states. Simulcasting of greyhound races does not merit Congressional concern. Interstate simulcasting accounts for roughly one percent of all the monies wagered on greyhound races. Furthermore, the distribution of the purse for greyhound racing is already regulated by seven states. As the Commission on the Review of the National Policy Toward Gaming concluded, "where gambling is concerned, there should be a considered reluctance on the part of the Federal Government to interfere with state policies.

ACTION REQUESTED

For the above reasons, AGTOA opposes passage of IGRA and asks that Members of Congress express their opposition to this bill to the House and Senate Commerce Committees.

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